UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,242	08/22/2003	Sandip Sarkar	030244	9397

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Qualcomm Incorporated
Patents Department
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EXAMINER
BOAKYE, ALEXANDER O

ART UNIT	PAPER NUMBER
2667	

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	**Applicant(s)**
Office Action Summary	10/646,242	SARKAR, SANDIP
	Examiner	**Art Unit**	
	ALEXANDER BOAKYE	2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>22 August 2003</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-51* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-51* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

Double Patenting

1.   The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-8 are provisionally rejected under the judicially created doctrine of double patenting over claim 1 of copending Application No.10, 646,955. This is a provisional double patenting rejection since the conflicting claims have not yet been patented. The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: Both applications recite a receiver for receiving a plurality of access requests for transmission on the shared resource from a respective plurality of remote stations, a scheduler for allocating a portion of the shared resource to zero or more of the requesting remote stations in response to the plurality of access requests and transmitter for transmitting the common

access grant to the remaining remote stations on one or more common grant channels

with the only difference between the claims of the instant application and the claim of

the copending application being that the claim of the instant application recites

transmitting a busy signal comprising one or more busy commands while the claims of

the copending application does not recites such limitation. Therefore, it would have

been obvious to one of ordinary skill in the art to implement the invention of the instant

application using the copending application with the motivation being that it provides

capability for sharing resources thus enhancing system capacity.

Claims 9-21 are provisionally rejected under the judicially created doctrine of

double patenting over claim 18 of copending Application No.10, 646,955. This is a

provisional double patenting rejection since the conflicting claims have not yet been

patented. The subject matter claimed in the instant application is fully disclosed in the

referenced copending application and would be covered by any patent granted on that

copending application since the referenced copending application and the instant

application are claiming common subject matter, as follows: Both applications recite

a data buffer for receiving data for transmission; a message generator for generating an

access request message when the data buffer contains data for transmission;

a receiver for receiving one or more common grant channels from a base station

; a message decoder for decoding an access grant directed to the remote station, the

access grant comprising a common pant on one of the one or more common grant

channels and a transmitter for transmitting the access request message and for

transmitting a portion of data from the data buffer in response to a decoded access

grant with the only difference between the claims of the instant application and the claims of the copending application being that the claim of the instant application recite receiving a busy signal from the base station while the claim of the copending application lacks such limitation. Therefore, it would have been obvious to one of ordinary skill in the art to implement the invention of the instant application using the copending application with the motivation being that it provides capability for sharing resources thus enhancing system capacity.

Claims 22-24 are provisionally rejected under the judicially created doctrine of double patenting over claim 46 of copending Application No.10, 646,955. This is a provisional double patenting rejection since the conflicting claims have not yet been patented. The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: Both applications recite a plurality of remote stations, each of a subset of which transmit an access request message to form a plurality of access request messages; a base station for: receiving the plurality of access request messages; allocating a shared system resource among the plurality of remote stations; transmitting zero or more individual access grants to a subset of the requesting remote stations and zero or more common access grants to the remaining requesting remote stations with the only difference between the claims of the instant application and the claims of the copending application being the claim of the instant application discloses transmitting a busy signal when the measured

utilization exceeds a predetermined threshold while the copending application does not anticipate such limitation. Therefore, it would have been obvious to one of ordinary skill in the art to implement the invention of the instant application using the copending application with the motivation being that it provides capability for sharing resources thus enhancing system capacity.

Claims 25-32 are provisionally rejected under the judicially created doctrine of double patenting over claim 51 of copending Application No.10, 646,955. This is a provisional double patenting rejection since the conflicting claims have not yet been patented. The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: Both applications recite receiving a plurality of access requests for transmission on the shared resource from a respective plurality of remote stations; allocating a portion of the shared resource to zero or more of the requesting remote stations in response to the plurality of access requests, the allocation comprising zero or one common access grant to a subset of the requesting remote stations transmitting the common access grant to the remaining remote stations on one or more common grant channels with the only difference between the claims of the instant applications and the claim of the copending application being that the claim of the instant application discloses transmitting a busy signal when the measured utilization exceeds a predetermined threshold. Therefore, it would have been obvious to one of ordinary skill in the art to implement the invention of

the instant application using the copending application with the motivation being that it provides capability for sharing resources thus enhancing system capacity.

Claims 33-45 are provisionally rejected under the judicially created doctrine of double patenting over claim 58 of copending Application No.10, 646,955. This is a provisional double patenting rejection since the conflicting claims have not yet been patented. The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: Both applications recite receiving data for transmission storing the data in a data buffer; generating an access request message; transmitting the access request message; receiving one or more common grant channels from a base station; decoding an access grant comprising a common grant on one of the one or more common grant channels; and transmitting a portion of data from the data buffer in response to a decoded access with the only difference between the claims of the instant application and the claims of the copending application being that the claim of the instant application recites receiving a busy signal from the base station while the claim of the copending application does not anticipate such limitation. Therefore, it would have been obvious to one of ordinary skill in the art to implement the invention of the instant application using the copending application with the motivation being that it provides capability for sharing resources thus enhancing system capacity.

Claim 46 are provisionally rejected under the judicially created doctrine of double

patenting over claim 71 of copending Application No.10, 646,955. This is a provisional

double patenting rejection since the conflicting claims have not yet been patented. The

subject matter claimed in the instant application is fully disclosed in the referenced

copending application and would be covered by any patent granted on that copending

application since the referenced copending application and the instant application are

claiming common subject matter, as follows: Both applications recite means for

receiving a plurality of access requests for transmission on the shared resource from a

respective plurality of remote stations; means for allocating a portion of the shared

resource to zero or more of the requesting remote stations in response to the plurality of

access requests, the allocation complising zero or one common access grant to a

subset of the requesting remote stations ; means for transmitting the common access

grant to the remaining remote stations on one or more common grant channels with the

only difference between the claims of the instant application and the claim of the

copending application being that the claim of the instant application recites and means

for transmitting a busy signal when the measured utilization exceeds a pre-determined

threshold while the claim of the copending application lacks such limitation. Therefore, it

would have been obvious to one of ordinary skill in the art to implement the invention of

the instant application using the copending application with the motivation being that it

provides capability for sharing resources thus enhancing system capacity.

Claim 47 are provisionally rejected under the judicially created doctrine of double

patenting over claim 74 of copending Application No.10, 646,955. This is a provisional

double patenting rejection since the conflicting claims have not yet been patented. The

subject matter claimed in the instant application is fully disclosed in the referenced

copending application and would be covered by any patent granted on that copending

application since the referenced copending application and the instant application are

claiming common subject matter, as follows: Both applications recite means for

receiving data for transmission; means for storing the data in a data buffer; means for

generating an access request message; means for transmitting the access request

message; means for receiving one or more common grant channels from a base

station; means for decoding an access grant comprising a common grant on one of the

one or more common grant channels; and means for transmitting a portion of data from

the data buffer in response to a decoded access grant with the only difference between

the claims of the instant application and the claim of the copending application being

that the claim of the instant application recites means for receiving a busy signal from

the base station while the claim of the copending application does not anticipate such

limitation. Therefore, it would have been obvious to one of ordinary skill in the art to

implement the invention of the instant application using the copending application with

the motivation being that it provides capability for sharing resources thus enhancing

system capacity.

Claim 48 are provisionally rejected under the judicially created doctrine of double

patenting over claim 76 of copending Application No.10, 646,955. This is a provisional

double patenting rejection since the conflicting claims have not yet been patented. The

subject matter claimed in the instant application is fully disclosed in the referenced

copending application and would be covered by any patent granted on that copending

application since the referenced copending application and the instant application are

claiming common subject matter, as follows: Both applications recite means for

receiving a plurality of access requests for transmission on the shared resource from a

respective plurality of remote stations; means for allocating a portion of the shared

resource to zero or more of the requesting remote stations in response to the plurality of

access requests, the allocation comprising zero or one common access grant to a

subset of the requesting remote stations; means for transmitting the common access

grant to the remaining remote stations on one or more common grant channels with the

only difference between the claims of the instant application and the claim of the

copending application being that the claim of the instant application discloses means

for transmitting a busy signal when the measured utilization exceeds a pre-determined

threshold while the claim of the copending application does not anticipate such

limitation. Therefore, it would have been obvious to one of ordinary skill in the art to

implement the invention of the instant application using the copending application with

the motivation being that it provides capability for sharing resources thus enhancing

system capacity.

Claim 49 is provisionally rejected under the judicially created doctrine of double

patenting over claim 81 of copending Application No.10, 646,955. This is a provisional

double patenting rejection since the conflicting claims have not yet been patented. The

subject matter claimed in the instant application is fully disclosed in the referenced

copending application and would be covered by any patent granted on that copending

application since the referenced copending application and the instant application are

claiming common subject matter, as follows: Both applications recite means for

receiving data for transmission; means for storing the data in a data buffer; means for

generating an access request message; means for transmitting the access request

message; means for receiving one or more common grant channels from a base

station; means for decoding an access grant comprising a common grant on one of the

one or more common grant channels ; and means for transmitting a portion of data from

the data buffer in response to a decoded access grant with the only difference between

the claim of the instant application and the claim of the copending application being that

the claim of the instant application discloses means for receiving a busy signal from the

base station while the claim of the copending application lacks such limitation.

Therefore, it would have been obvious to one of ordinary skill in the art to implement the

invention of the instant application using the copending application with the motivation

being that it provides capability for sharing resources thus enhancing system capacity.

Claim 50 is provisionally rejected under the judicially created doctrine of double

patenting over claim 81 of copending Application No.10, 646,955. This is a provisional

double patenting rejection since the conflicting claims have not yet been patented. The

subject matter claimed in the instant application is fully disclosed in the referenced

copending application and would be covered by any patent granted on that copending

application since the referenced copending application and the instant application are

claiming common subject matter, as follows: Both applications recite Processor

readable media operable to perform the following steps: receiving a plurality of access

requests for transmission on the shared resource from a respective plurality of remote

stations; allocating a portion of the shared resource to zero or more of the requesting

Remote stations in response to the plurality of access requests, the allocation

comprising zero or one common access grant to a subset of the requesting remote

stations; transmitting the common access grant to the remaining remote stations on one

or more common grant channels with the only difference between the claims of the

instant applications and the claim of the copending application being that the claim of

the instant application recites transmitting a busy signal when the measured utilization

exceeds a predetermined threshold while the claim of the copending application does

not anticipate such limitation. Therefore, it would have been obvious to one of ordinary

skill in the art to implement the invention of the instant application using the copending

application with the motivation being that it provides capability for sharing resources

thus enhancing system capacity.

Claim 51 is provisionally rejected under the judicially created doctrine of double

patenting over claim 84 of copending Application No.10, 646,955. This is a provisional

double patenting rejection since the conflicting claims have not yet been patented. The

subject matter claimed in the instant application is fully disclosed in the referenced

copending application and would be covered by any patent granted on that copending

application since the referenced copending application and the instant application are

claiming common subject matter, as follows: Both applications recite Processor

readable media operable to perform the following steps: receiving data for transmission;

storing the data in a data buffer generating an access request message; transmitting the

access request message; receiving one or more common grant channels from a base

station; decoding an access grant comprising a common grant on one of the one or

more common grant channels; transmitting a portion of data from the data buffer in

response to a decoded access grant with the only difference between the claims of the

instant application and the claim of the copending application being that the claim of the

instant application discloses receiving a busy signal from the base station while the

claim of the copending application lacks such limitation. Therefore, it would have been

obvious to one of ordinary skill in the art to implement the invention of the instant

application using the copending application with the motivation being that it provides

capability for sharing resources thus enhancing system capacity.

Furthermore, there is no apparent reason why applicant would be prevented from

presenting claims corresponding to those of the instant application in the other

copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA

1968). See also MPEP § 804.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Alexander Boakye whose telephone number is (571)

272-3183. The examiner can normally be reached on M-F from 8:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Chi Pham, can be reached on (571) 272-3179.   The fax number is (703)

872-9306.   Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to The Electronic Business Center numbers (866) 217-

9197 and (703) 305-3028.

   Alexander Boakye

   Patent Examiner
   AB
   3/16/05

CHI PHAM
SUPERVISORY PATENT EXAMINEI
TECHNOLOGY CENTER 2600 3/17/05